

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EDWARD J. KELLY,

Plaintiff,

v.

Case No. 07-11824
Honorable Denise Page Hood
Magistrate Virginia Morgan

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION &
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Before the Court is Magistrate Judge Virginia Morgan's Report and Recommendation ("R & R") [Docket # 8], which recommends that Defendant's Motion for Summary Judgment [Docket # 7] be granted, and that Plaintiff's Motion for Summary Judgment [Docket # 6] be denied. Plaintiff did not file objections to the R & R.

If a party objects to specific portions of the R & R, a district court should "make a de novo determination of those portions." 28 U.S.C. § 636. If an R & R is not objected to, a district court need not review it by any standard. *See* 28 U.S.C. § 636; *see also Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002). A district court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(B)(1).

The Court has reviewed the R & R and agrees with its reasoning and conclusions of law.¹

In light of the foregoing,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Virginia Morgan [Docket # 8] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment [Docket # 7] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Docket # 6] is **DENIED**.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: July 31, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 31, 2008, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager

¹The Court agrees outright with the R & R's reasoning as to Plaintiff's lack of credibility. The Court also agrees with the R & R's reasoning as to whether or not the Administrative Law Judge's failure to comply with SSR 00-4p was harmless, but notes the following. The R&R footnotes three so-called light-duty security jobs from the Dictionary of Occupational Titles ("DOT") in support of the position that no conflict between the Vocational Expert's ("VE") testimony and the DOT exists. Two of the job titles require apprehending trespassers. Given Plaintiff's left shoulder injury, these job titles may pose a conflict with the VE's testimony. Nevertheless, the Court adopts the R & R because the third security job listed, 372.167-101 DISPATCHER/SECURITY GUARD, does not require the apprehension of trespassers, and because Plaintiff did not file objections to the R & R.